

§ 351.217 Reviews to implement results of subsidies enforcement proceeding under section 751(g) of the Act.

(a) *Introduction.* Section 751(g) provides a mechanism for incorporating into an ongoing countervailing duty proceeding the results of certain subsidy-related disputes under the WTO Subsidies Agreement. Where the United States, in the WTO, has successfully challenged the “nonactionable” (e.g., noncountervailable) status of a foreign subsidy, or where the United States has successfully challenged a prohibited or actionable subsidy, the Secretary may conduct a review to determine the effect, if any, of the successful outcome on an existing countervailing duty order or suspended investigation. This section contains rules regarding the initiation and conduct of reviews under section 751(g).

(b) *Violations of Article 8 of the Subsidies Agreement.* If:

(1) The Secretary receives notice from the Trade Representative of a violation of Article 8 of the Subsidies Agreement;

(2) The Secretary has reason to believe that merchandise subject to an existing countervailing duty order or suspended investigation is benefiting from the subsidy or subsidy program found to have been in violation of Article 8; and

(3) No administrative review is in progress, the Secretary will initiate an Article 8 violation review of the order or suspended investigation to determine whether the subject merchandise benefits from the subsidy or subsidy program found to have been in violation of Article 8 of the Subsidies Agreement.

(c) *Withdrawal of subsidy or imposition of countermeasures.* If the Trade Representative notifies the Secretary that, under Article 4 or Article 7 of the Subsidies Agreement:

(1)(i)(A) The United States has imposed countermeasures; and

(B) Such countermeasures are based on the effects in the United States of imports of merchandise that is the subject of a countervailing duty order; or

(ii) A WTO member country has withdrawn a countervailable subsidy provided with respect to merchandise sub-

ject to a countervailing duty order, then

(2) The Secretary will initiate an Article 4/Article 7 review of the order to determine if the amount of estimated duty to be deposited should be adjusted or the order should be revoked.

(d) *Procedures.* The Secretary will conduct an Article 8 violation review or an Article 4/Article 7 review under this section in accordance with § 351.221.

(e) *Expedited reviews.* The Secretary will conduct reviews under this section on an expedited basis.

§ 351.218 Sunset reviews under section 751(c) of the Act.

(a) *Introduction.* The URAA added a new procedure, commonly referred to as “sunset reviews,” in section 751(c) of the Act. In general, no later than once every five years, the Secretary must determine whether dumping or countervailable subsidies would be likely to continue or resume if an order were revoked or a suspended investigation were terminated. The Commission must conduct a similar review to determine whether injury would be likely to continue or resume in the absence of an order or suspended investigation. If the determinations under section 751(c) of both the Secretary and the Commission are affirmative, the order (or suspended investigation) remains in place. If either determination is negative, the order will be revoked (or the suspended investigation will be terminated). This section contains rules regarding the procedures for sunset reviews.

(b) *In general.* The Secretary will conduct a sunset review, under section 751(c) of the Act, of each antidumping and countervailing duty order and suspended investigation, and, under section 752(b) or section 752(c) (whichever is applicable), will determine whether revocation of an antidumping or countervailing duty order or termination of a suspended investigation would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy.

(c) *Notice of initiation of review; early initiation—*(1) *Initial sunset review.* No later than 30 days before the fifth anniversary date of an order or suspension of an investigation (see section 751(c)(1)